

#### **IC 25-8-15.4**

##### **Chapter 15.4. Tanning Facilities**

#### **IC 25-8-15.4-1**

##### **Application of chapter**

Sec. 1. This chapter does not apply to a medical treatment facility that uses ultraviolet radiation in the treatment of disease.

*As added by P.L.142-1995, SEC.31.*

#### **IC 25-8-15.4-2**

##### **"Committee" defined**

Sec. 2. As used in this chapter, "committee" refers to the tanning facility committee that may be established under section 21 of this chapter.

*As added by P.L.142-1995, SEC.31.*

#### **IC 25-8-15.4-3**

##### **"Tanning device" defined**

Sec. 3. As used in this chapter, "tanning device" means equipment that meets the following conditions:

- (1) Emits ultraviolet radiation with wavelengths in the air between two hundred (200) and four hundred (400) nanometers.
- (2) Is used for tanning human skin.

*As added by P.L.142-1995, SEC.31.*

#### **IC 25-8-15.4-4**

##### **"Tanning facility" defined**

Sec. 4. As used in this chapter, "tanning facility" means a facility that provides persons with access to a tanning device.

*As added by P.L.142-1995, SEC.31.*

#### **IC 25-8-15.4-5**

##### **Necessity for license**

Sec. 5. A person may not operate a tanning facility and charge a fee for the use of tanning devices unless the person has a license to operate the tanning facility issued by the board under this chapter.

*As added by P.L.142-1995, SEC.31.*

#### **IC 25-8-15.4-6**

##### **License requirements**

Sec. 6. To obtain a license to operate a tanning facility, a person:

- (1) must submit an application to the board on a form prescribed by the board;
- (2) must pay a fee established by the board under IC 25-1-8-2;
- and
- (3) may be subject to an inspection of the facility by the board.

*As added by P.L.142-1995, SEC.31. Amended by P.L.194-2005, SEC.51; P.L.177-2009, SEC.33.*

#### **IC 25-8-15.4-7**

**Contents of license application**

Sec. 7. The form described under section 6(1) of this chapter must contain the following information:

- (1) The name and location of the tanning facility.
- (2) The name of the person that owns the tanning facility.
- (3) Any other information required by the board.

*As added by P.L.142-1995, SEC.31.*

**IC 25-8-15.4-8****Separate licenses; transfer of license to new location**

Sec. 8. (a) A person must obtain a separate license for each tanning facility the person operates.

(b) If a person:

- (1) has obtained a license to operate a tanning facility issued under this chapter; and
- (2) changes the location of the tanning facility;

the board may transfer the license to the tanning facility at the new location.

*As added by P.L.142-1995, SEC.31.*

**IC 25-8-15.4-9****Expiration and renewal of licenses**

Sec. 9. (a) A license issued under this chapter expires every fourth year on a date established by the licensing agency under IC 25-1-6-4.

(b) The board shall renew a license issued under this chapter if the person that operates the facility pays the fee for renewal established by the board under IC 25-1-8-2 on or before the date established by the licensing agency.

(c) If the holder of a license does not renew the license on or before the renewal date established by the licensing agency, the license expires and becomes invalid without any action by the board.

*As added by P.L.142-1995, SEC.31. Amended by P.L.105-2008, SEC.24.*

**IC 25-8-15.4-9.5****Reinstatement; requirements**

Sec. 9.5. (a) The board may, upon application, reinstate a license under this chapter that has been expired for not more than three (3) years if the person holding the license meets the requirements for reinstatement established under IC 25-1-8-6(c).

(b) If more than three (3) years have elapsed since the date a license under this chapter expired, the individual holding the license may have the license reinstated by satisfying the requirements for reinstatement under IC 25-1-8-6(d).

*As added by P.L.197-2007, SEC.44. Amended by P.L.105-2008, SEC.25.*

**IC 25-8-15.4-10****Display of license**

Sec. 10. A person holding a tanning facility license issued under

this chapter shall display the license in a manner that is clearly visible to a person entering the tanning facility.

*As added by P.L.142-1995, SEC.31.*

#### **IC 25-8-15.4-11**

##### **Written statement**

Sec. 11. Before a person uses a tanning device in a tanning facility, the operator, owner, or employee of the operator or owner of the tanning facility shall require the person to read and sign a written statement approved by the board that contains the following information:

- (1) A person who uses a tanning device in this tanning facility must use protective eyewear.
- (2) If the provided eye protection is not worn, use of a tanning device in this tanning facility may cause damage to the eyes.
- (3) Overexposure to the ultraviolet radiation produced by a tanning device in this tanning facility may cause burns.
- (4) Exposure to the ultraviolet radiation produced by the tanning devices in this tanning facility may cause premature aging of the skin and skin cancer.
- (5) Abnormal skin sensitivity to ultraviolet radiation or burning may be caused by certain foods, cosmetics, or medication, including the following:
  - (A) Tranquilizers.
  - (B) Diuretics.
  - (C) Antibiotics.
  - (D) High blood pressure medication.
  - (E) Birth control medication.
  - (F) Other photosensitizing agents as determined under rules adopted by the board.
- (6) A person who is taking a prescription drug or an over-the-counter drug should consult a physician or pharmacist before using a tanning device.

*As added by P.L.142-1995, SEC.31.*

#### **IC 25-8-15.4-12**

##### **Display of sign**

Sec. 12. An operator of a tanning facility shall display a sign approved by the board in a manner that is clearly visible to a person using the tanning devices in the tanning facility.

*As added by P.L.142-1995, SEC.31.*

#### **IC 25-8-15.4-13**

##### **Denial of risks**

Sec. 13. An owner, operator, or employee of a tanning facility may not profess that using a tanning device is free from risk.

*As added by P.L.142-1995, SEC.31.*

#### **IC 25-8-15.4-14**

##### **Duties of operator**

Sec. 14. The operator of a tanning facility shall do the following:

(1) Have an employee present in the tanning facility during business hours who, as determined under rules adopted by the board, is knowledgeable in the correct operation of the tanning devices in the tanning facility and is able to assist persons in the proper use of the tanning devices.

(2) Provide each person using a tanning device with properly sanitized eyewear that protects the eyes from ultraviolet radiation and allows adequate vision.

(3) Provide instructions to each person using a tanning device on how to maintain proper exposure distance as recommended by the manufacturer of the tanning device.

(4) Limit each person using a tanning device to the maximum exposure time:

(A) established under rules of the board; or

(B) if the board has not adopted rules concerning exposure time for the tanning device, recommended by the manufacturer of the tanning device.

(5) Not allow the temperature of a tanning facility to exceed one hundred (100) degrees Fahrenheit at any time.

(6) Provide and maintain:

(A) the tanning facility; and

(B) tanning devices in the tanning facility;

in a manner that meets sanitation and safety rules adopted by the board.

*As added by P.L.142-1995, SEC.31.*

#### **IC 25-8-15.4-15**

##### **Presence of parent or guardian**

Sec. 15. A person who is less than sixteen (16) years of age must be accompanied by a parent or guardian when using a tanning device in a tanning facility.

*As added by P.L.142-1995, SEC.31.*

#### **IC 25-8-15.4-16**

##### **Signature of parent or guardian on written statement**

Sec. 16. A person who is less than eighteen (18) years of age may not use a tanning device in a tanning facility unless the parent or guardian of the person has also signed the written statement under section 11 of this chapter in the presence of the operator of the tanning facility.

*As added by P.L.142-1995, SEC.31.*

#### **IC 25-8-15.4-17**

##### **Protective eyewear**

Sec. 17. A person who uses a tanning device in a tanning facility must use protective eyewear.

*As added by P.L.142-1995, SEC.31.*

#### **IC 25-8-15.4-18**

**Reports to board**

Sec. 18. (a) The operator of a tanning facility must report to the board each known:

- (1) injury; or
- (2) complaint of an injury;

that results from the use of a tanning device in the tanning facility.

(b) The operator must do the following:

- (1) Telephone a report under subsection (a) to the board not more than forty-eight (48) hours after the injury or complaint of an injury occurs.
- (2) File a written report under subsection (a) with the board on a form provided by the board not later than seven (7) days after the injury or complaint of an injury occurs.

(c) The board shall send a copy of the report filed under subsection (b)(2) to the following:

- (1) The injured person or complaining person.
- (2) The federal Food and Drug Administration.

*As added by P.L.142-1995, SEC.31.*

**IC 25-8-15.4-19****Inspections**

Sec. 19. An authorized representative of the board may inspect each tanning facility to determine compliance with this chapter and rules adopted under this chapter at any time during normal business hours of a tanning facility.

*As added by P.L.142-1995, SEC.31.*

**IC 25-8-15.4-20****Denial, suspension, or revocation of license**

Sec. 20. The board may deny, suspend, or revoke a license issued under this chapter if the person holding or requesting the license violates this chapter or a rule adopted under this chapter.

*As added by P.L.142-1995, SEC.31.*

**IC 25-8-15.4-21****Tanning facility committee; members; appointment**

Sec. 21. (a) The board may establish the tanning facility committee.

(b) If the board establishes the committee under subsection (a), the committee consists of five (5) members appointed by the president of the board for terms of two (2) years. The committee must include the following:

- (1) One (1) member of the board.
- (2) One (1) owner of a licensed tanning facility who is licensed as a cosmetologist under IC 25-8-4.
- (3) One (1) owner of a licensed tanning facility who does not hold any other license under this article.
- (4) One (1) physician or other licensed health care provider who works in the area of dermatology.
- (5) One (1) individual who is not associated with a tanning

facility or a profession licensed under this article other than as a consumer.

(c) If the board establishes the committee under this section, the president of the board shall appoint one (1) of the committee members to serve as chairman of the committee.

*As added by P.L.142-1995, SEC.31.*

#### **IC 25-8-15.4-22**

##### **Committee; removal of member**

Sec. 22. A member of the committee may be removed by the board without cause.

*As added by P.L.142-1995, SEC.31.*

#### **IC 25-8-15.4-23**

##### **Rules**

Sec. 23. (a) The committee may propose rules to the board concerning the following:

(1) The operation of tanning devices.

(2) The implementation of this chapter.

(b) The board may adopt rules under IC 4-22-2 that are recommended by the committee.

*As added by P.L.142-1995, SEC.31.*

#### **IC 25-8-15.4-24**

##### **Schedule of civil penalties; order of compliance; imposition of civil penalty**

Sec. 24. (a) In addition to the other remedies provided in this chapter, the board shall adopt a schedule of civil penalties that may be levied to enforce the provisions of the following:

(1) This chapter.

(2) The rules adopted under this chapter by the board.

(b) A penalty included in the schedule of civil penalties adopted under subsection (a) may not exceed one thousand dollars (\$1,000) for each violation per day.

(c) The board may issue an order of compliance, impose a civil penalty included in the schedule of civil penalties adopted under subsection (a), or both, against a person who does any of the following:

(1) Fails to comply with this chapter or a rule adopted under this chapter.

(2) Interferes with or obstructs the board or the board's authorized representative in the performance of duties under this chapter.

(d) An order of compliance may be issued under IC 4-21.5-3-6, IC 4-21.5-3-8, or IC 4-21.5-4. A civil penalty may be imposed only in a proceeding under IC 4-21.5-3-8.

(e) A proceeding commenced to impose a civil penalty may be consolidated with any other proceeding commenced to enforce this chapter or a rule adopted under this chapter.

*As added by P.L.142-1995, SEC.31.*

**IC 25-8-15.4-25**

**Violations; offenses**

Sec. 25. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with this chapter commits a Class C misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

*As added by P.L.142-1995, SEC.31.*